IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

WRIT PETITION NO. 3521 OF 2005

PETITIONER : Manoj Kumar Mishra ,S/o Lakhan Lal Mishra aged about 28 years, occupation computer business, resident of Village Bade Mathpara Sarangarh , P.S.and Tahsil Sarangarh , District Raigarh (CG).

Judgment Debtor

P.R. No. 3473/E/V.R. Rus
Presented by Shri
Dated 22/7/05

VERSUS

RESPONDENT: State Bank of India, constituted under the State Bank of India Act 1955, Central Office Nariman Point Medamcama, Mumbai , local Head Office, Hoshangabad Road Bhopal, Branch Office Krishi Vikas Bank, Sarangarh, District Raigarh (CG).

(Decree Holder)

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT OR WRITS, ORDER OR ORDERS, DIRECTION OR DIRECTIONS UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर ~~23~~ 24

आदेश पत्रक

मामला क्रमांक WP No. 35 21 **सन्** 2005

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

3-8-2005

Shri Y.V. R. Rao, counsel for the petitioner.

The instant writ petition has been filed by the petitioner under Article 227 of the Constitution of India questioning the legality, propriety and correctness of the order dated 11-5-2005 (Annexure-P/3) passed by the Additional District Judge, Raigarh in execution case No.2-B/01.

Brief facts, relevant for the disposal of this writ petition are that respondent herein, State Bank of India, filed a suit for recovery of the loan amount against the petitioner herein and the said suit was decreed vide ~~order~~ judgment dated 9-5-2001 and a decree to the tune of Rs.1,09,980/- was passed against the petitioner and thereafter in the same year the said execution proceeding was filed for recovery of the amount. It appears that when the respondent failed to pay decretal amount, an application under Order 21 Rule 30 read with Order 21 Rule 37 of the C.P.C. was filed on behalf of respondent for sending the petitioner herein to the civil jail, and in pursuance of that, notice was issued to the petitioner herein. In response to that, the petitioner appeared before the Court and filed reply. However, executing Court reached to the conclusion that as the execution proceeding is pending against the petitioner since 16-7-2001 and he is not making any payment, therefore, without sending him to the civil jail, it is difficult to realize the amount, therefore, application under Order 21 Rule 30 read with Order 21 Rule 37 has been accepted and further order has been passed that the estimate of one month's expenses of the petitioner herein be obtained from the district jail Raigarh, and also order has been passed for issuance of warrant, and thereafter, the executing Court is required to undertake the procedure as envisaged under Order 21 Rule 40 of the C.P.C..

पे)

XI-HC-22

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	In view of the above fact, I do not find any illegality or infirmity in the impugned order. The writ petition is liable to be dismissed and it is accordingly dismissed. Consequently, M.(W.)P. No.2977/2005 and I.A.No.6684/2005 also stand disposed of. **Sd/-** **L.C. Bhadoo** **Judge**	

Barve

(पीछे देखिये)